SUMMARY OF INVESTIGATION

DIVISION OF OCCUPATIONAL LICENSURE

DOCKET NUMBER 2021-000832 (EN)
INVESTIGATOR Matthew Runge
SUPERVISOR Alan Van Tassel

DATE RECEIVED BY INVESTIGATOR 9/1/21

COMPLAINANT:
NAME Board of Engineers & Land Surveyors

LICENSEE/RESPONDENT:
NAME Gary James
ADDRESS OF RECORD OR LAST KNOWN:
125 Great Rock Road
Hanover, MA 02339

TEL [redacted]
LICENSE TYPE & NO. 32531-EN-C
EXP 6/30/22
BUSINESS NAME & ADDRESS

TEL
LICENSE TYPE & NO.
EXP

ATTORNEY INFO: N/A
Are there any past or other related complaints? YES ☒ **NO** ☐
If YES, list docket number (s) and brief summary of status and disposition of case (s):
2021-000550-IT-ENF - Board v. Rainey - Unlicensed Practice – Pending Board Review.

- Mr. Rainey stated in his response that he worked with James Engineering of Hanover, MA. A search of the internet yielded the James Engineering plan in question.

EN 02-019 – Unprofessional Conduct – Dismissed
EN 91-011 – Forgery – 15-Day Suspension and 1 year Probation

Are there any related civil or criminal court actions? YES ☐ **NO** ☒
If YES, describe status and attach certified copies of judgments.

ALLEGATIONS OF COMPLAINT: It is alleged that Mr. James is practicing beyond the scope of his Civil Engineering license by performing land surveying in violation of 250 CMR 5.01 (2) (b). (See plan.)

ANSWER OF RESPONDENT: Mr James states that he does not believe he practiced beyond the scope of his license. He states that Mr. Rainey's license was current at the time that he worked on the plan and further notes that any other plan he utilized was a document in the public domain located at either the Scituate Town Hall or the Plymouth County Registry of Deeds.

INDEX OF ITEMS IN FILE IN ORDER OF PRESENTATION:

ITEM A: Board Complaint Documents	**ITEM D:**
ITEM B: Response	**ITEM E:**
ITEM C: Letter / Emails	**ITEM F:**

NARRATIVE OF INVESTIGATOR'S ACTIVITIES AND FINDINGS:

Mr. James has been licensed since 1/24/1986 and has two previous complaints.

The only stamp that appears on the [redacted] James Engineering plans is that of Mr. James. Any reference to surveying is listed as a note.

The [redacted] set of plans created by Mr. James notes that "4. *Wetland flags located by William E. Rainey PLS*.

- Mr. Rainey's stamp does not appear on this plan.

The [redacted] set of plans created by Mr. James further notes that "*5. Property line is based upon plan entitled "Plan of Land* [redacted] *Prepared by Morse Engineering Corp Inc. for the* [redacted] [redacted] *and Recorded in the Plymouth County Registry of Deeds Plan* [redacted]

- A copy of the Morse Engineering Plan was not included in the set of James Engineering Plans

Gregory J. Morse, PE of Morse Engineering was contacted seeking further clarity (see email) on his company's connection to the James Engineering plan in question. Mr. Morse responded:

- We did not authorize use of our work product on the James Engineering 2019 plan. However, our plan from 2017 was "recorded" at the Registry of Deeds and available for anyone to view and utilize the information provided thereon. James included a reference to our plan (note 5) which I would expect if anyone were utilizing data from our plan.
- No one from James Engineering has ever contacted me regarding my previous work at [redacted]

Description of any evidence not in file (such as additional folders, med bottles, etc.) N/A

List other states/agencies involved and include contacts (name, address, telephone number):

N/A

INVESTIGATOR SIGNATURE: ______________ DATE: 9/21/21

SUPERVISOR SIGNATURE: *Alan Van Tassel* DATE: 9/17/21

SULLIVAN & COMERFORD, P.C.
ATTORNEYS AT LAW
80 WASHINGTON STREET
BUILDING B, SUITE NO. 7
NORWELL, MA 02061
(781) 871-6500
Fax (781) 792-3993

WALTER B. SULLIVAN
ANITA J. COMERFORD

KAYLA A. SEPULVEDA

MAR 18 2024

March 15, 2024

Mary R. Pixley, Esq.
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street
Suite 710
Boston, MA 02118

Re: **Docket No. 2021-000832-IT-ENF/Gary James Board of Registration Complaint**

Dear Attorney Pixley:

With respect to the above referenced matter, enclosed herewith please find Consent Agreement executed by Licensee Gary James and Mr. James' check in the amount of $1000.00 payable to the Commonwealth of Massachusetts. Should you have any questions or comments please contact me.

Very truly yours,

Walter B. Sullivan

WBS: jeg
ENC.

Letter to Pixley-gary james 031524

Record Type: Compliance
Application Detail: Detail
Record Status: Active
Creation Date: 03/27/2024
Balance: $0.00

Workflow Status:

Task	Assigned To	Status	Status Date	Action By
Intake	Kathleen McNally	Compliance T...	03/28/2024	Colleen Maloney
Monitor	Kathleen McNally	Compliance T...	04/05/2024	Kathleen McNally
Board Review		Pending Review		

Contact Info:

Name	Organization Name	Contact Type	Contact Primary Address	Status	Contact Start Date	Contact End Date
Gary James		Respondent	Mailing Address, Great...	Active	09/01/2021	

Street/City:

Licenses:

License Number	License Type	Type Class	Name	Business Name
32531	Civil Engineer	C	GARY D JAMES	JAMES ENGINEERING

Custom Fields:

BOARD
Board
Engineers and Land Surveyors

CONDITIONAL LICENSE AGREEMENT
Compliance Case Type
Discipline

CENSURE
Censured

CIVIL ADMINISTRATIVE PENALTY

Fine Amount	Due Date	Compliance Achieved Date
1000	04/01/2024	03/28/2024

LICENSE REVOKED
Revocation Date
–

LICENSE SUSPENDED

Start Date	End Date	Petition to Board
04/01/2024	–	√

PROBATION

Start Date	End Date	Petition to Board
–	–	

REPRIMAND
Reprimanded

STAYED SUSPENSION

Start Date	End Date	Petition to Board
–	–	

VOLUNTARY SURRENDER

Due Date	Surrender Date
–	–

RESTITUTION

Amount	Due Date	Compliance Achieved Date
–	–	–

SUPERVISION

Start Date	End Date

CEASE AND DESIST
Effective Date

OTHER TERMS
Other Conditions

PRODUCE DOCUMENTS

Document Description Due Date Date Completed

OTHER TERMS

Description Type Due Date Date Completed

CONTINUING EDUCATION

Board Pre-Approval Required Course Name Credit Hours (Number) Due Date Compliance Achieved Date

Scheduled/Pending Inspections: Inspection Type Scheduled Date Inspector Status Comments

Resulted Inspections: Inspection Type Inspection Date Inspector Status Comments

English	**This document is important and should be translated immediately.**
Español	**Este documento es importante y debe ser traducido de inmediato.**
Português	**Este documento é importante e deve ser traduzida imediatamente.**
Italiano	**Questo documento è importante e deve essere tradotto immediatamente.**
Ελληνικά	**Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφράζονται αμέσως.**
Français	**Ce document est important et doit être traduit immédiatement.**
中文	**这份文件是重要的，应当立即转换。**
Tiếng Việt	**Văn bản này rất là quan trọng và nên được dịch lại ngay lập tức.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

In the Matter of
Gary D. James
License No. 32531-EN-C

Docket No. 2021-000832-IT-ENF

CONSENT AGREEMENT

The Massachusetts Board of Registration of Professional Engineers and Land Surveyors (hereinafter "Board") and Gary D. James (hereinafter "Respondent") hereby stipulate and agree that the following information shall be entered into and become a permanent part of the record of the Respondent, which is maintained by the Board:

1. The Respondent agrees that this Consent Agreement (hereinafter "Agreement") has been entered into voluntarily and in resolution of the allegations set forth in the Order to Show Cause in Docket No. 2021-000832-IT-ENF.

2. The Respondent acknowledges and admits that:
   a) On or about January 24, 1986, the Board issued him a license to practice as a civil engineer in the Commonwealth of Massachusetts, 32531-EN-C.
   b) The Board has not issued him a license to practice as a Professional Land Surveyor in Massachusetts.
   c) In about 2019, he affixed his Pro [redacted] including a to plans for a property located on Conditions Proposed Drainage Improvements Plan of Land.
   d) The above-described plans were not stamped or signed by a PLS, but included the delineation of existing or proposed structures, features or boundaries relative to property lines.

e) His conduct, described above, constituted the unlicensed practice of land surveying and a violation of 250 CMR 5.01(2) and M.G.L. c. 112, §§ 61, 65A.

3. It is the desire and intent of the Respondent and the Board to completely resolve this matter without a hearing conducted before the Board pursuant to G.L. c. 30A and 801 CMR 1.00. Therefore, the Respondent agrees that the Board shall place his license to practice as a registered professional engineer in the Commonwealth of Massachusetts on **SUSPENSION for a period of 30 days** (hereinafter "Suspension Period"). The Suspension Period shall commence on April 1, 2024 (hereinafter "Effective Date"). The Respondent understands and agrees that, while his license is suspended, he shall not engage in the practice of professional engineering, advertise or offer professional engineering services, or otherwise hold himself out in any manner tending to indicate that he is licensed by the Board to provide professional engineering services. The Respondent acknowledges and understands that any evidence of unauthorized practice by the Respondent which comes to the Board's attention shall subject his license to action by the Board under its statutory authority.

4. The Respondent agrees to submit a written petition to terminate the Suspension Period. Said petition shall include an executed copy of this agreement. The petition to terminate the Suspension is a documentary requirement of this agreement and must be submitted pursuant to paragraph 5, below. The Board shall terminate the Suspension unless it determines that termination would not be in the interest of public health, safety, or welfare. The Respondent agrees that the Suspension shall not be terminated unless and until he submits a written petition to terminate the Suspension and the Board acts to terminate the Suspension.

5. Any documentary requirements of the consent agreement shall be submitted electronically to: Compliance.dol@mass.gov or by mail to Division of Occupational Licensure, Office of Investigations – Compliance Monitor, 1000 Washington St, Ste 710, Boston, MA 02118.

6. The Respondent further agrees to pay a **FINE in the amount of one thousand dollars ($1,000.00)** upon his submission of this signed Agreement. Said fine payment shall be submitted in the form of a cashier's check or money order(s) made payable to the Commonwealth of Massachusetts.

7. The Respondent agrees to comply with all requirements contained in this Agreement and all laws and regulations governing the professional engineering profession in the Commonwealth of Massachusetts.

8. The Board agrees that, in return for the Respondent's execution of this Agreement and successful compliance with the terms of this Agreement, the Board will not further prosecute the allegations arising from the Complaint in this matter.

9. The Respondent acknowledges that this Agreement is a matter of public record, and that upon its Effective Date, the Board may forward a copy of this Agreement to any interested party or agency, including the equivalent licensing boards of other states or to any other individual or entity as permitted or required by law.

10. The Respondent understands and agrees that the disciplinary action described in this Agreement is a final act, which is not subject to reconsideration, appeal, or judicial review.

11. The Respondent states that he has used legal counsel in connection with his decision to enter into this Agreement or, if he has not used legal counsel, that such decision was freely made.

12. The Respondent certifies that he has read this document entitled "Consent Agreement" and understands its terms. The Respondent understands that he has the right to a formal hearing concerning the allegations against him and that during said adjudication, he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts and all other rights set forth in the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 et seq. The Respondent further states that he understands that by executing this document entitled "Consent Agreement," he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above-listed rights attendant thereto.

13. The Respondent understands that this Consent Agreement is subject to final Board approval. Thus, the Respondent understands that this Agreement will not become effective until the Board formally approves it.

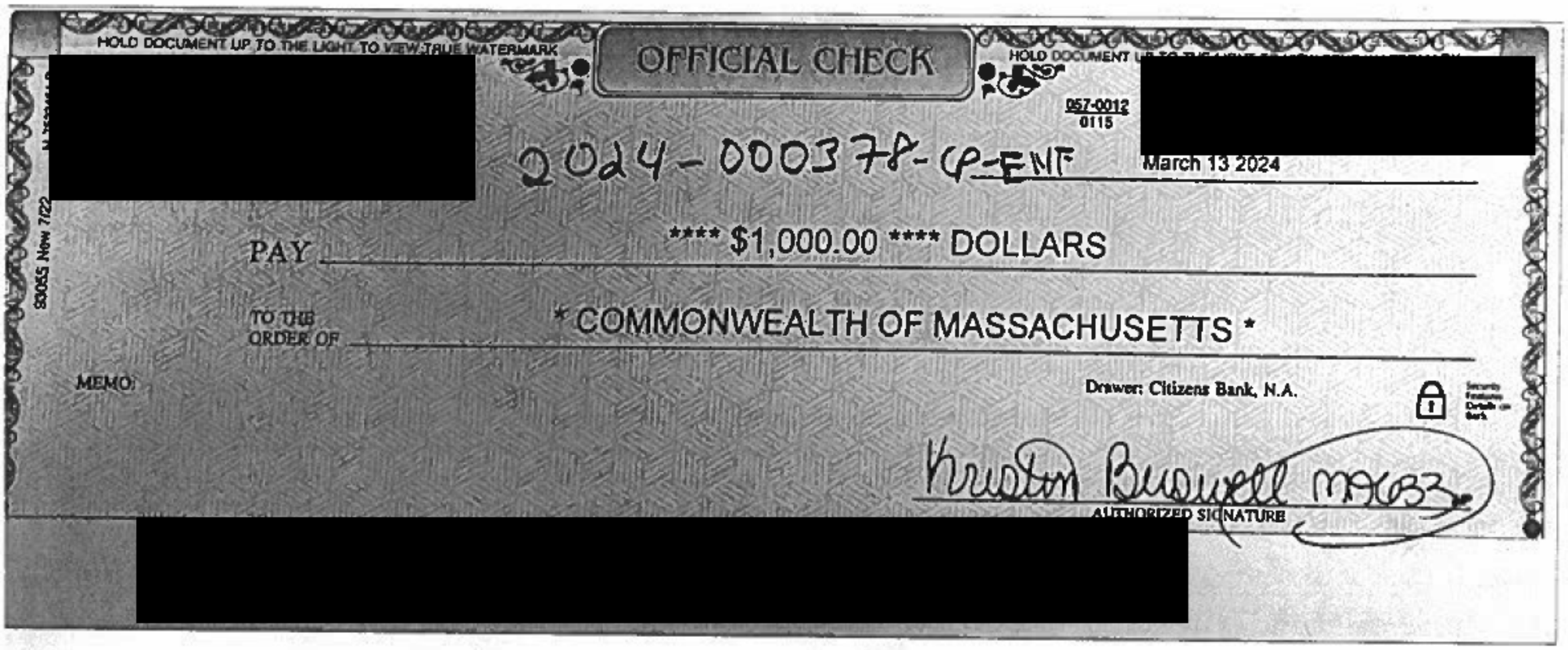
3/12/2024

Gary D. James, Respondent (*sign and date*)

For the Board of Registration of Professional
Engineers and Land Surveyors,

Kathleen McNally, Executive Director

April 1, 2024
EFFECTIVE DATE



HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

OFFICIAL CHECK

HOLD DOCUMENT UP

[redacted]

93055 New 7/22

[redacted]

057-0012
0115

2024-000378-CP-ENF

March 13 2024

PAY **** $1,000.00 **** DOLLARS

TO THE ORDER OF * COMMONWEALTH OF MASSACHUSETTS *

MEMO:

Drawer: Citizens Bank, N.A.

Security Features Details on Back

Kristin Buswell MA633

AUTHORIZED SIGNATURE

[redacted]

McCarthy, Jean (DPL)

From: gmorse@morsecoinc.com
Sent: Tuesday, August 31, 2021 1:52 PM
To: Runge, Matthew (DPL)
Subject: RE: Investigation / DPL

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. Runge,
Nice speaking with you on the phone today and thank you for performing the work you do, keeping the integrity of our profession in check. To answer your questions:

1. The boundary surveying at [redacted] was performed by my firm, Morse Engineering Co., Inc. during 2017 for the [redacted]
2. We did not authorize use of our work product on the James Engineering 2019 plan. However, our plan from 2017 was "recorded" at the Registry of Deeds and available for anyone to view and utilize the information provided thereon. James included a reference to our plan (note 5) which I would expect if anyone were utilizing data from our plan.
3. I am not working with James Engineering on this project. I am working on another project in Norwell with James Engineering. Also, my father, Jeff Morse is an excavation contractor and I believe is performing work at [redacted] He is a separate entity than Morse Engineering.
4. No one from James Engineering has ever contacted me regarding my previous work at [redacted]

Please let me know if you need anything further.

Gregory J. Morse, P.E.
Morse Engineering Co., Inc.

From: Runge, Matthew T (REG) <matthew.t.runge@state.ma.us>
Sent: Tuesday, August 31, 2021 1:23 PM
To: GMorse@Morsecoinc.com
Subject: Investigation / DPL

Hello Mr. Morse,

I am Matthew Runge, an Investigator with the Division of Professional Licensure's (now renamed the Division of Occupational Licensure) Board of Professional Engineers and Professional Land Surveyors. I am hopeful to briefly speak with you about the work you / your firm conducted on [redacted] in 2017. A lead that I am investigating led me down a rabbit hole to this attached plan. It notes that that the Surveying work was performed by your firm. Did you / your firm authorize the use of your work product on the attached James Engineering 2019 plan? Are you currently working in conjunction with James Engineering on this project? Has anyone from James Engineering contacted you / your firm to discuss your 201No one 7 work product?

Please know that neither you nor anyone at your firm is the subject of this investigation. Thank you for your time and assistance. My phone number is below.

Matthew Runge

Office of Investigations
Division of Occupational Licensure
436 Dwight Street, Room 210
Springfield, MA 01103
(p) 413-735-6293 (f) 413-784-1325
Matthew.t.runge@mass.gov

Virus-free. www.avast.com

From: Plotkin, James (DPL)
To: Pixley, Mary (DPL); Walter Sullivan Jr.; Kayla Sepulveda
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James
Date: Wednesday, March 27, 2024 11:17:45 AM

Attorneys Sullivan and Pixley:

This confirms my receipt of the executed Consent Agreement in this matter which is deemed closed for purposes of the hearings unit. I have removed the scheduled hearing from the calendar.

Thank you both.

Sincerely,

Jim Plotkin

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Wednesday, March 27, 2024 11:07 AM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Walter Sullivan Jr. <wsullivanjr@sulsul.com>; Kayla Sepulveda <ksepulveda@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Hearings Officer Plotkin,

The agreement has been executed. Please see the attached document for your records. I ask that the hearing be cancelled.

Sincerely,
Mary Pixley

From: Plotkin, James (DPL) <James.Plotkin@mass.gov>
Sent: Thursday, March 14, 2024 1:18 PM
To: Walter Sullivan Jr. <wsullivanjr@sulsul.com>; Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Attorney Sullivan,

This acknowledges Respondent’s intent. Thank you.

Sincerely,

James Plotkin

From: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Sent: Thursday, March 14, 2024 1:15 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Plotkin, James (DPL) <James.Plotkin@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

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My client has executed the Agreement and provided me with the check. I shall mail to you.
Thanks,

Walter B. Sullivan
Sullivan & Comerford, P.C
80 Washington Street
Building B, Suite 7
Norwell, MA 02061
(781) 871-6500
Email: wsullivanjr@sulsul.com

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Tuesday, March 12, 2024 2:56 PM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Hearings Officer Plotkin,

Thank you, I will file the prosecution's pre-hearing memo by COB on March 29, 2024, if the parties have not executed an agreement by that time.

Sincerely,
Mary Pixley

From: Plotkin, James (DPL) <James.Plotkin@mass.gov>
Sent: Tuesday, March 12, 2024 2:46 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Thank you, Attorney Pixley.

The request is granted. Since we have a holding date for the hearing on April 11, 2024, I will suggest that the pre-hearing memos (if necessary) be due for submittal by COB on March 29, 2024.

Sincerely,

James Plotkin

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Tuesday, March 12, 2024 2:41 PM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Hearings Officer Plotkin,

I write to update you on this matter. The parties continue to work toward settlement but need additional time to address one provision of the agreement. I anticipate that the agreement will be finalized the week of March 25, possibly earlier. I, therefore, respectfully ask that the prehearing memo deadline be continued to April 4, 2024.

Thank you for your consideration of this request.

Sincerely,
Mary Pixley

From: Plotkin, James (DPL) <James.Plotkin@mass.gov>
Sent: Tuesday, February 6, 2024 1:47 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

The parties may have additional time for their pre-hearing memos, given the continuance. For now, I will note the deadline as March 12, 2024.

James Plotkin

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Tuesday, February 6, 2024 1:45 PM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>

Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Hearings Officer Plotkin,

I will check with the prosecution's witnesses and get back to you as soon as possible. Would you like the parties to file pre-hearing memos tomorrow, as scheduled, or will that deadline be continued as well?

Sincerely,
Mary Pixley

From: Plotkin, James (DPL) <James.Plotkin@mass.gov>
Sent: Tuesday, February 6, 2024 12:10 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Thank you, Attorney Pixley.

Given the parties' plan to bring an offer to the Board on 2.22.24, the request for a continuance is granted.

Please advise as to your availability/amenability on the following dates: March 26; April 3; April 4; or April 11.

Sincerely,

James Plotkin

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Tuesday, February 6, 2024 12:04 PM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Kayla Sepulveda <ksepulveda@sulsul.com>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Hearings Officer Plotkin,

I write to update you on this matter. As you know, Attorney Sullivan recently filed his notice of appearance for the Respondent. Attorney Sullivan and I spoke yesterday regarding the potential for settlement. The Respondent would like to make a counteroffer, with supporting documentation. Unfortunately, the next Board meeting is scheduled for February 22, a day after the current hearing date. The parties, therefore, request a brief continuance of the hearing, to allow for a final attempt to settle this matter. We understand that any continuance would be brief. The parties are available for hearing February 28-29 and in March and April, *except for* 3/14, 4/2, and 4/23.   If the continuance is granted, Attorney Sullivan will provide me with a written counteroffer and supporting documentation by Thursday, February 8, so that I can appear before the Board on February 22.

Sincerely,
Mary Pixley

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)

From: Plotkin, James (DPL) <James.Plotkin@mass.gov>
Sent: Thursday, January 25, 2024 3:18 PM
To: Kayla Sepulveda <ksepulveda@sulsul.com>; Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Docket No. 2021-000832-IT-ENF- Gary James

Attorneys Sepulveda and Sullivan:

For your information, please find the scheduling order attached above.

Sincerely,

James Plotkin

From: Kayla Sepulveda <ksepulveda@sulsul.com>
Sent: Thursday, January 25, 2024 3:07 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>; Plotkin, James (DPL) <James.Plotkin@mass.gov>
Cc: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: Docket No. 2021-000832-IT-ENF- Gary James

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Good afternoon,

Please see attached Notices of Appearance for Walter B. Sullivan and Kayla A. Sepulveda on behalf of

Gary D. James.

Thank you,

Kayla A. Sepulveda
Sullivan & Comerford, P.C.
80 Washington Street
Building B, Suite 7
Norwell, MA 02061
Tel: (781) 871-6500
Fax: (781) 792-3993
email address: ksepulveda@sulsul.com

http://www.sulsul.com/

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LEAP Email Reference |F:6712927d-d557-430f-a7ba-0fc7261b3508|M:1c8ac893-99ad-3540-b30f-4669144d20fa|O:9ca7714c-3c67-4ab3-8af1-e6adefc20018| (Please do not delete)

From: Pixley, Mary (DPL)
To: Walter Sullivan Jr.
Subject: RE: Consent Agreement (G. James matter) (002)
Date: Friday, March 8, 2024 2:36:00 PM
Attachments: MP v. 2 Consent Agreement (G. James matter).docx

---

Walter,

I changed the effective date to April 1. If this looks good, please have your client sign it and then please mail it to me, along with the payment. I will then forward it to the Board's Executive Director for the required final review. To be clear, I expect her to sign the agreement, but a final review is always required. The payment will not be processed unless the agreement is signed.

Since we have pre-hearing memos due on Tuesday, I propose the following update to the Hearings Officer:

"Hearings Officer Plotkin,

I write to update you on this matter. The parties continue to work toward settlement but need additional time to address one provision of the agreement. I anticipate that the agreement will be finalized the week of March 25, or ealier. I, therefore, respectfully ask that the prehearing memo deadline be continued to April 4, 2024."

I plan to send the above update on Monday morning. If you have time to chat briefly by phone next week, please let me know when you are available.

Thank you,
Mary

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)

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From: Pixley, Mary (DPL)
Sent: Wednesday, March 6, 2024 12:05 PM
To: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Consent Agreement (G. James matter) (002)

I think that is much more likely to be acceptable. I think we would need to update the agreement in a couple of places – I'll try to send the revised draft by Friday.

From: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Sent: Wednesday, March 6, 2024 10:52 AM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Consent Agreement (G. James matter) (002)

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My client just called me and indicated he could commence suspension on April 1. Is that acceptable to the Board?

Walter B. Sullivan
Sullivan & Comerford, P.C
80 Washington Street
Building B, Suite 7
Norwell, MA 02061
(781) 871-6500
Email: wsullivanjr@sulsul.com

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Monday, March 4, 2024 5:20 PM
To: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Subject: RE: Consent Agreement (G. James matter) (002)

Walter,

I spoke with the Chief Prosecutor on this. The Board's Executive Director is very unlikely to sign an agreement so far in advance of the suspension start date, and we wouldn't recommend it. Can we pick a start date before, or at least very close to, the April 11 hearing date?   With an earlier start date, we can get the agreement executed before the hearing, and then ask to cancel the hearing. I'd be happy to discuss this further by phone if that would be helpful. I am available anytime tomorrow (Tuesday) and I am also available later in the week. If you would like to chat, let me know what time(s) would work for you.

-Mary

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)

From: Walter Sullivan Jr. <wsullivanjr@sulsul.com>
Sent: Monday, February 26, 2024 11:50 AM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: Consent Agreement (G. James matter) (002)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi Mary, just one slight change (I hope). The licensee is proposing to have the suspension start on May 1, 2024 so that he can warp up some assignments in an orderly fashion. Please see tracked proposed revision. Thanks so much. Walter Sullivan 781-871-6500

From: gary james
To: Pixley, Mary (DPL)
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)
Date: Thursday, October 5, 2023 11:20:11 AM

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Mary
No I just got back from vacation and was planning on going back in next week to check again
Thank you
Gary D. James

Sent from Mail for Windows

From: Pixley, Mary (DPL)
Sent: Thursday, October 5, 2023 9:36 AM
To: gary james
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

We must report to Mr. Plotkin tomorrow. Do you have any new information for me?

Sincerely,
Mary Pixley

From: Pixley, Mary (DPL)
Sent: Thursday, September 14, 2023 3:30 PM
To: gary james [redacted]
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

I am writing to follow-up on whether you were able to obtain documents from the town.

-Mary

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)

From: gary james [redacted]>
Sent: Wednesday, August 9, 2023 2:32 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

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Thank You

Sent from Mail for Windows

From: Pixley, Mary (DPL)
Sent: Wednesday, August 9, 2023 8:53 AM
To: gary james
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

Thank you for the update. I will let the Hearings Officer know where things stand. He may want to go ahead and schedule some dates. Even if he does, there will still be time for me to go to a Board meeting this fall.

Sincerely,
Mary Pixley

From: gary james [redacted]
Sent: Tuesday, August 8, 2023 7:39 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

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I would like more time still trying to find out what happened to
The plans send to Conservation I think they may have been removed
To another department and with summer vacations it has been difficult

To find the personnel at Town Hall to help now that the Summer is winding
Down I may have better luck
Thanks
Gary

Sent from Mail for Windows

From: Pixley, Mary (DPL)
Sent: Tuesday, August 8, 2023 10:59 AM
To: gary james
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

Do you want me to convey the documents that you have given me thus far to the Board, or do you want time to try to get more documentation? We must update the Hearings Officer this Friday, 8/11.

Sincerely,
Mary Pixley

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)
617-701-8631 (landline)

From: Pixley, Mary (DPL)
Sent: Monday, July 17, 2023 12:33 PM
To: gary james [redacted]
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

I am writing to touch-base on whether you were able to get any additional documentation.

Sincerely,
Mary Pixley

From: gary james <[redacted]>
Sent: Monday, June 12, 2023 6:12 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

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Mary
I was wondering the same thing. Maybe one of the other boards or commissions grabbed the plans I will go down and see what I can find this week.
I have attached the plans that I believe Bill stamped in town hall. I will check with Bill also maybe he can remember which plans he stamped.

Gary D. James, P.E.

Sent from Mail for Windows

From: Pixley, Mary R (REG)
Sent: Monday, June 12, 2023 4:15 PM
To: gary james
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

Thank you for this information. Could we set up a call to discuss the information that you provided? I am attaching the Application for Complaint, that includes 2 plans for [redacted]. I am trying to understand which plan corresponds to the plan that Mr. Rainey told you he stamped at the Situate Town Hall. I am also wondering if there is anyone, other than the town, who may have a copy of the PLS plan(s) that you used to create the plans that you stamped.

Are you available sometime this week? If so, what times would work for you?

I may ask Hearings Officer Plotkin for more time. He may feel that he needs to schedule a date for the hearing at this point, but I would expect any hearing date to be several months out.

Thank you,
Mary Pixley

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710

Boston, MA 02118

857-286-6872 (work cell)
617-701-8631 (landline)

From: gary james [redacted]>
Sent: Wednesday, June 7, 2023 6:03 PM
To: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

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Mary
Unfortunately still no luck but I have added some additional meeting minutes which may help. They are each attached the enclosed letter. The chain of email and meeting minutes does indicate that the P.L.S. did satisfy the requirements of the bylaws for a stamped existing conditions plan. I will try the other departments in Town Hall next to see if I can locate the stamped base plan.
Thank you
Gary D. James, P.E.

Sent from Mail for Windows

From: Pixley, Mary R (REG)
Sent: Tuesday, June 6, 2023 9:08 AM
To: gary james
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Mr. James,

I am checking-in to see if you have had time to visit the town hall and/or to obtain any documents that you wanted me to show the Board. I would need documents by the end of the day on Friday (6/9), in order to get on the Board's agenda for its June 22 meeting. Thank you.

Sincerely,
Mary Pixley

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)

From: gary james [redacted]>
Sent: Thursday, April 20, 2023 5:44 PM
To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Attorney Pixley:
Thank you for the phone call this morning and the additional time. I have a much better understanding of what the Board's concerns are. Hopefully in the next week or so I can get down to the Scituate Town hall and retrieve a copy of the original stamped plan. I will also get a letter back to you outlining what we discussed today. Hopefully in the next month my wife will be able to be on her own and I can get in to see the hearing officer. I will reach out to Mr. Plotkin the first week of May and update him at that point and see if we can meet before the 30th deadline discussed below.
Gary D. James, P.E.

Sent from Mail for Windows

From: Plotkin, James (REG)
Sent: Thursday, April 20, 2023 1:13 PM
To: Pixley, Mary R (REG); [redacted]
Subject: RE: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Dear Attorney Pixley,

Thank you for this information. In light of it, I ask for an email status report on this matter by COB on Friday, June 30, 2023.

Please advise if you require more time than that.

Sincerely,

James Plotkin

From: Pixley, Mary (DPL) <mary.r.pixley@mass.gov>
Sent: Thursday, April 20, 2023 1:11 PM

To: Plotkin, James (DPL) <James.Plotkin@mass.gov>; [redacted]
Subject: Matter of Gary D. James; Docket #2021-000832-IT-ENF (EN)

Hearings Officer Plotkin,

I write to update you on this matter. Mr. James reached out to me, and we discussed this matter by phone earlier today. I plan to convey information from Mr. James to the Board. Mr. James is currently caring for his wife after her recent surgery, and he needs to look through some town records, so it we may not be in a position for me to appear at the May 25 meeting. I believe, however, that Mr. James will be able to provide me with information to convey to the Board for the June 22 meeting.

Mr. James,

I do not believe that you have filed a request for a hearing with Hearings Officer Plotkin. If you wish to preserve your right to a hearing, please make that request. I also ask that you file an answer/response to the allegations of the Order to Show Cause. If you wish to request an extension of time to file the answer, you must make that request to Hearings Officer Plotkin. Please copy me on all emails to Hearings Officer Plotkin.

Sincerely,
Mary Pixley

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, MA 02118

857-286-6872 (work cell)
617-701-8631 (landline)

DIVISION OF PROFESSIONAL LICENSURE
OFFICE OF INVESTIGATIONS
Application for Complaint
617-701-8756
www.mass.gov/dpl

Date Received:

Entered into the Database (Date): ____/____/____ **Docket #:** ________

Acknowledgement letter sent (Date): ____/____/____ **Signature:** ________

Please complete this form as fully as possible. (PLEASE DO NOT WRITE ABOVE LINE.) Please type or print legibly in ink.

SUBMITTED BY:

Name: Board of Engineers and Land Surveyors
Last Name First Name M.I.

Address:
Number Street Phone

City State Zip Code Alternate Phone

E-mail:

LICENSEE THE COMPLAINT IS AGAINST (use separate form for each licensed individual/business):

Name: James Gary D.
Last Name First Name M.I.

Address: 125 Great Rock Rd.
Number Street Phone

Hanover MA 02339 EN 32531-C
City State Zip Code License Number (if known)

Business Name

Business Address Phone

City State Zip Code Business License # (if applicable/known)

Please check the trade or profession that this application for complaint pertains to:

___ Accountant
___ Aesthetician
___ Aesthetic Shop
___ Applied Behavior Analyst
___ Architect
___ Athletic Trainer
___ Audiologist/Speech Language Pathologist
___ Barber
___ Barber Shop
___ Barber School
___ Chiropractor
___ Cosmetology School
___ Dietitian/Nutritionist
___ Dispensing Optician
___ Drinking Water Operator
___ Electrician
___ Electrology / Laser Hair Removal
✓ [✓ Engineer]
___ Fire/Burglar Alarm Installer
___ Funeral Director / Home
___ Gas Fitter
___ Hair Salon
___ Hair Stylist
___ Health Officer
___ Hearing Instrument Specialist
___ Home Inspector
___ Land Surveyor
___ Landscape Architect
___ Manicure Salon
___ Manicurist
___ Marriage & Family Therapist
___ Massage Establishment
___ Massage Therapist
___ Mental Health Counselor
___ Occupational School
___ Occupational School Sales Representative
___ Occupational Therapist
___ Optometrist
___ Physical Therapist
___ Plumber
___ Podiatrist
___ Psychologist

LIST OF PROFESSIONS CONTINUED ON PAGE 2

_____ Real Estate Agent/
Broker/Salesperson
_____ Real Estate Appraiser
_____ Rehab Counselor
_____ Sanitarian
_____ Sheet Metal Worker
_____ Social Worker
_____ Veterinarian

Description of the incident(s):

Please describe the incident(s) that led to your application for complaint and note the times and dates that events occurred. List the names of all individuals involved. Please attach additional pages if needed.

practicing beyond scope of licensure -
performing land surveying.

250 CMR 5.01(2)(b)

(Please use a separate sheet if necessary. Do not write in the margins.)

Additional information or materials attached ☒ Yes ☐ No

To speed up the application for complaint process, submit legible copies (not the originals) of all relative documents supporting your application (e.g. contracts, medical records, cancelled checks, etc.). You will receive an acknowledgement letter notifying you if a complaint is issued based on your application. If a complaint is not issued, you will receive an explanation, and information on additional resources that may be available to you if such exist.

ATTESTATION AND AUTHORIZATION FOR RELEASE OF RECORDS AND REFERRAL FORM

My signature on this form, or a photocopy thereof, authorizes the Division of Professional Licensure (DPL) to obtain copies of any and all medical, dental and mental health records relating to my application for complaint. Pursuant to 45 CFR 164.501 (HIPAA), DPL is a "health oversight agency" which is authorized to review unredacted patient medical records without prior approval or notice given to any patient. Absent fraud or bad faith, certain individuals and entities filing complaints or providing records in support of a complaint are exempt from criminal or civil liability, or a cause of action of any nature. See G.L. c. 175, § 113V(f). DPL may refer this complaint to other appropriate law enforcement authorities.

Please note that all applications for complaints are examined to determine their factual basis. The act of filing an application for complaint does not ensure or imply that disciplinary action will be taken against the licensee.

I attest that the information provided is true, correct and complete to the best of my knowledge.

Alan VanVassel - Investigations Supervisor
Signature
FOR THE BOARD

Date 8/31/21

Mail this form to:
Division of Professional Licensure, Office of Investigations
1000 Washington Street, Suite 710, Boston, MA 02118

250 CMR 5.00: PROFESSIONAL PRACTICE

Section

5.01: Scope of Practice
5.02: Professional Conduct
5.03: Professional Seal
5.04: Direct Charge and Supervision
5.05: Business Entities
5.06: License Renewal
5.07: Reinstatement of Lapsed License
5.08: Use of Title Engineer or Land Surveyor
5.09: Professional and Moral Character

5.01: Scope of Practice

All engineering work and all land surveying work is considered work of a professional nature and shall be performed in conformance with 250 CMR unless such work falls within an exemption set forth in M.G.L. c. 112, § 81R. Consistent with M.G.L. c. 112, § 81D, 250 CMR 5.00 does not apply to work performed by persons who operate, maintain or install machinery or equipment, or to persons licensed as engineers under M.G.L. c. 146.

(1) Engineering work may be performed only by a Professional Engineer or under the Direct Charge and Supervision of a Professional Engineer as described in 250 CMR 5.04.

(2) Land surveying work may be performed only by Professional Land Surveyor or under the Direct Charge and Supervision of a Professional Land Surveyor as described in 250 CMR 5.04.

(a) A Professional Engineer qualified in the Branch of civil engineering may also perform land surveying incidental to his or her engineering work relative to locating or relocating any of the Fixed-works embraced within the practice of civil engineering, but excluding the determination of property lines.

(b) The delineation of existing or proposed structures, features or Boundaries relative to property lines requires the determination of property lines and therefore must be performed by a Professional Land Surveyor.

(3) Engineering Registrants must restrict engineering practice to areas of competence based upon their education and experience qualifications.

(4) Land Surveying Registrants must restrict land surveying practice to areas of competence based upon their education and experience qualifications.

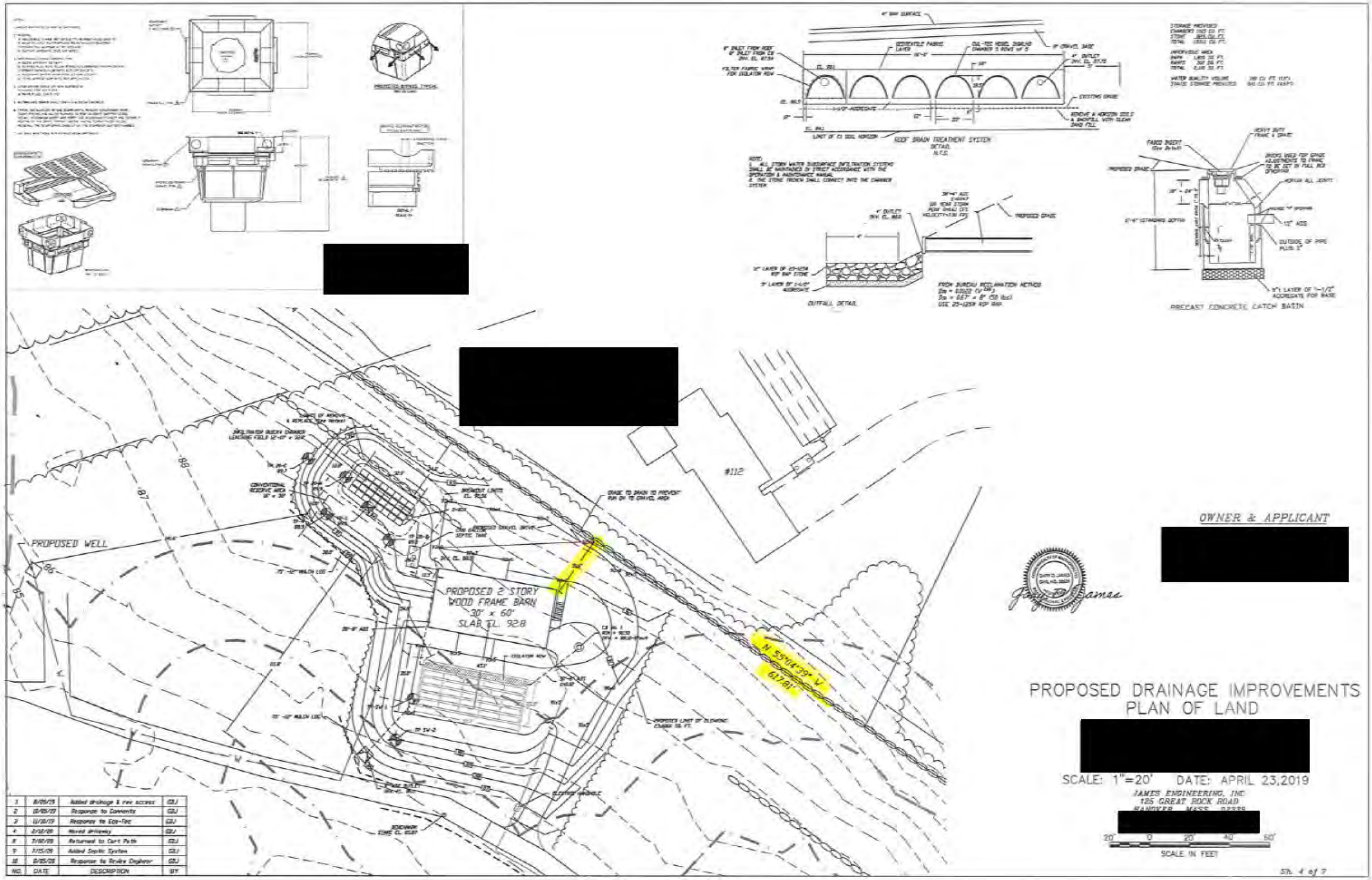
5.02: Professional Conduct

Each Professional Engineer and Professional Land Surveyor has an ethical duty to the public, the profession, and his or her clients.

In order to protect the health, property, and welfare of the public and to establish and maintain a high standard of integrity and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct and all other applicable provisions of 250 CMR shall be binding on every Professional Engineer and Professional Land Surveyor. Failure to comply with 250 CMR, including the rules of professional responsibility in 250 CMR 5.02(1) through (5), or M.G.L. c. 112, §§ 61 to 65E and §§ 81D to 81T may constitute grounds for disciplinary action against the Registrant.

(1) Responsibility. A Registrant shall hold paramount the health, property and welfare of the public in the performance of the Registrant's professional duties.

(a) If the professional judgment of any Registrant is overruled under circumstances where the health, property or welfare of the public may be endangered, that Registrant shall notify the Registrant's employer, client or such other authority as may be appropriate.


[redacted]
4" BIT SURFACE
8" INLET FROM ROOF
8" INLET FROM CB
INV. EL. 87.34
FILTER FABRIC WRAP FOR ISOLATOR ROW
GEOTEXTILE FABRIC LAYER
CUL-TEC MODEL 330XLHD CHAMBER 5 ROWS OF 5
8" GRAVEL BASE
4" OUTLET INV. EL. 87.75
EXISTING GRADE
1-1/2" AGGREGATE
REMOVE A HORIZON SOILS & BACKFILL WITH CLEAN SAND FILL
LIMIT OF C1 SOIL HORIZON
ROOF DRAIN TREATMENT SYSTEM
DETAIL
N.T.S.
NOTE:
1. ALL STORM WATER SUBSURFACE INFILTRATION SYSTEMS SHALL BE MAINTAINED IN STRICT ACCORDANCE WITH THE OPERATION & MAINTENANCE MANUAL
2. THE STONE TRENCH SHALL CONNECT INTO THE CHAMBER SYSTEM
4" OUTLET INV. EL. 86.0
100 YEAR STORM
PROPOSED GRADE
12" LAYER OF 25-125# RIP RAP STONE
3" LAYER OF 1-1/2" AGGREGATE
OUTFALL DETAIL
FROM BUREAU RECLAMATION METHOD
USE 25-125# RIP RAP
STORAGE PROVIDED
IMPERVIOUS AREA
WATER QUALITY VOLUME
STATIC STORAGE PROVIDED
HEAVY DUTY FRAME & GRATE
FABCO INSERT (See Detail)
BRICKS USED FOR GRADE ADJUSTMENTS TO FRAME TO BE SET IN FULL BED OF MORTAR
MORTAR ALL JOINTS
PROPOSED GRADE
12" ADS
OUTSIDE OF PIPE PLUS 2"
6"± LAYER OF 1-1/2" AGGREGATE FOR BASE
PRECAST CONCRETE CATCH BASIN
[redacted]
LIMIT OF REMOVE & REPLACE (See Notes)
INFILTRATOR QUICK4 CHAMBER LEACHING FIELD
CONVENTIONAL RESERVE AREA
BREAKOUT LIMITS
D-BOX
PROPOSED GRAVEL DRIVE
SEPTIC TANK
GRADE TO DRAIN TO PREVENT RUN OFF TO GRAVEL AREA
#112
PROPOSED 2 STORY WOOD FRAME BARN 30' x 60' SLAB EL. 92.8
ISOLATOR ROW
PROPOSED LIMIT OF CLEARING
MULCH LOG
PROPOSED WELL
N 55°04'39" W
617.81'
88
87
86
85

OWNER & APPLICANT

[redacted]

PROPOSED DRAINAGE IMPROVEMENTS
PLAN OF LAND

[redacted]

SCALE: 1"=20'   DATE: APRIL 23,2019

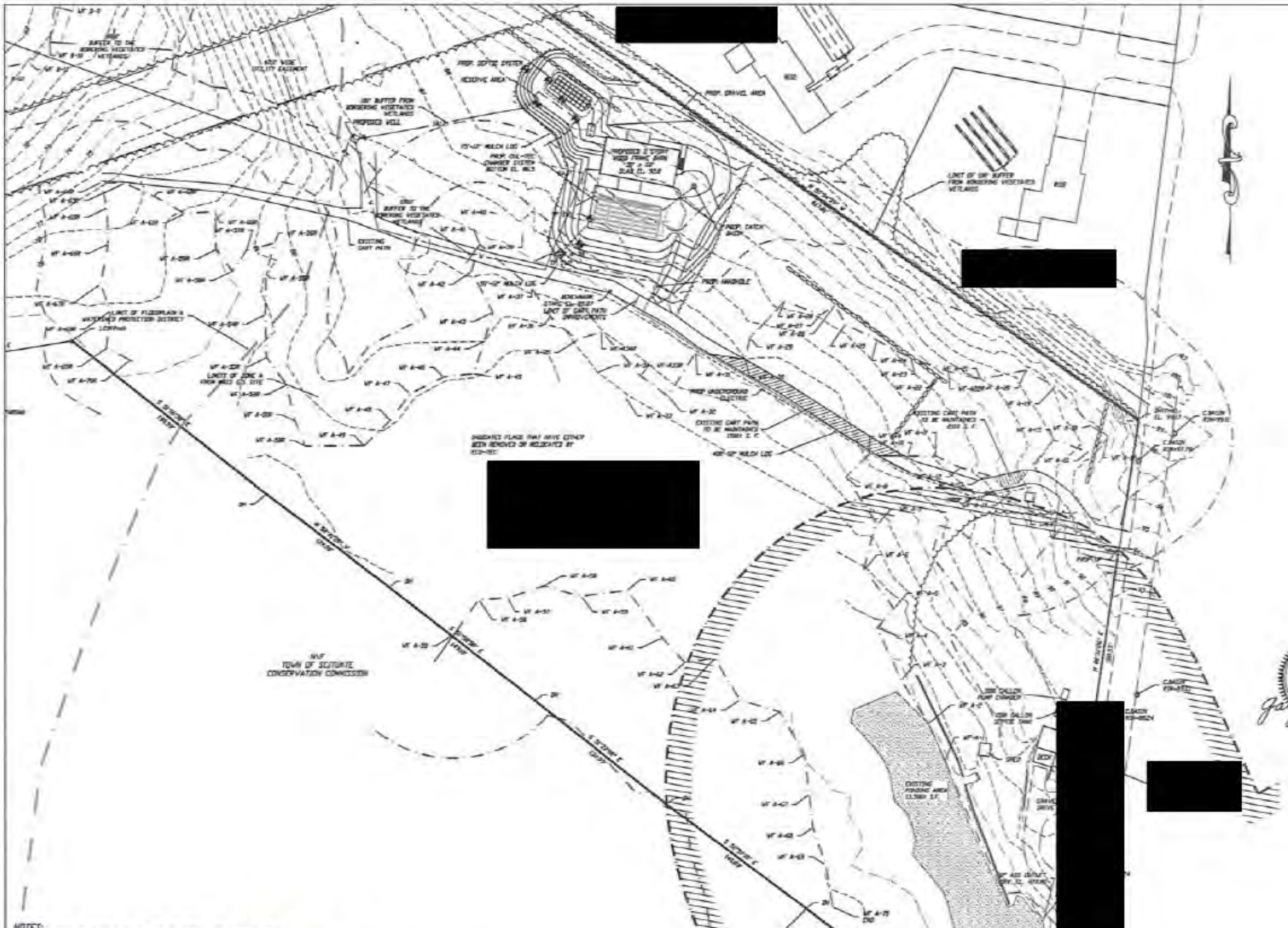
JAMES ENGINEERING, INC
125 GREAT ROCK ROAD
[redacted]

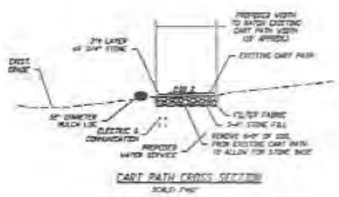
20' 0 20' 40' 60'
SCALE IN FEET

Gary D. James

1	8/29/19	Added drainage & new access	GDJ
2	10/05/19	Response to Comments	GDJ
3	11/30/19	Response to Eco-Tec	GDJ
4	2/12/20	Moved driveway	GDJ
8	7/02/20	Returned to Cart Path	GDJ
9	7/15/20	Added Septic System	GDJ
10	8/05/20	Response to Review Engineer	GDJ
NO.	DATE	DESCRIPTION	BY

Sh. 4 of 7


[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
N/F
TOWN OF SCITUATE
CONSERVATION COMMISSION
PROP. SEPTIC SYSTEM
RESERVE AREA
PROPOSED WELL
PROP. GRAVEL AREA
EXISTING CART PATH
EXISTING PONDING AREA


EXIST. GRADE
3"± LAYER OF 3/4" STONE
PROPOSED WIDTH TO MATCH EXISTING CART PATH WIDTH (12' APPROX)
EXISTING CART PATH
12" DIAMETER MULCH LOG
ELECTRIC & COMMUNICATION
PROPOSED WATER SERVICE
FILTER FABRIC
3-4" STONE FILL
REMOVE 6-8" OF SOIL FROM EXISTING CART PATH TO ALLOW FOR STONE BASE

CART PATH CROSS SECTION

SCALE: 1"=40'

NOTES:
1. WETLANDS FLAGGED BY CHRIS NEWHALL IN SPRING 2019.
2. ELEVATIONS BASED UPON MEAN SEA LEVEL DATUM
3. HOUSE LOCATION AND CONTOURS AT THE FRONT OF THE LOT TAKEN FROM SEPTIC REPAIR DESIGN PREPARED BY RALPH COLE ON RECORD AT THE BOARD OF HEALTH.
4. WETLAND FLAGS LOCATED BY WILLIAM E. RAINEY P.L.S.
[redacted]
6. CONTOURS AND TOP OF BANK ON ABUTTING PARCEL TAKEN FROM PLAN ENTITLED "COMMON DRIVEWAY PLAN [redacted] MASS" PREPARED BY AABERG ASSOCIATES, DATED SEPT 18,1998.

1	8/29/19	Added drainage & rev access	GDJ
2	10/05/19	Response to Comments	GDJ
3	11/18/19	Response to Eco-Tec	GDJ
4	2/12/20	Moved driveway	GDJ
5	4/12/20	Used Cart Path	GDJ
8	7/02/20	Returned to Cart Path	GDJ
9	7/15/20	Added Septic System	GDJ
NO.	DATE	DESCRIPTION	BY

James

OWNER & APPLICANT

[redacted]

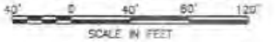
PROPOSED CONDITIONS PLAN OF LAND

[redacted]

SCALE: 1"=40' DATE: APRIL 23,2019

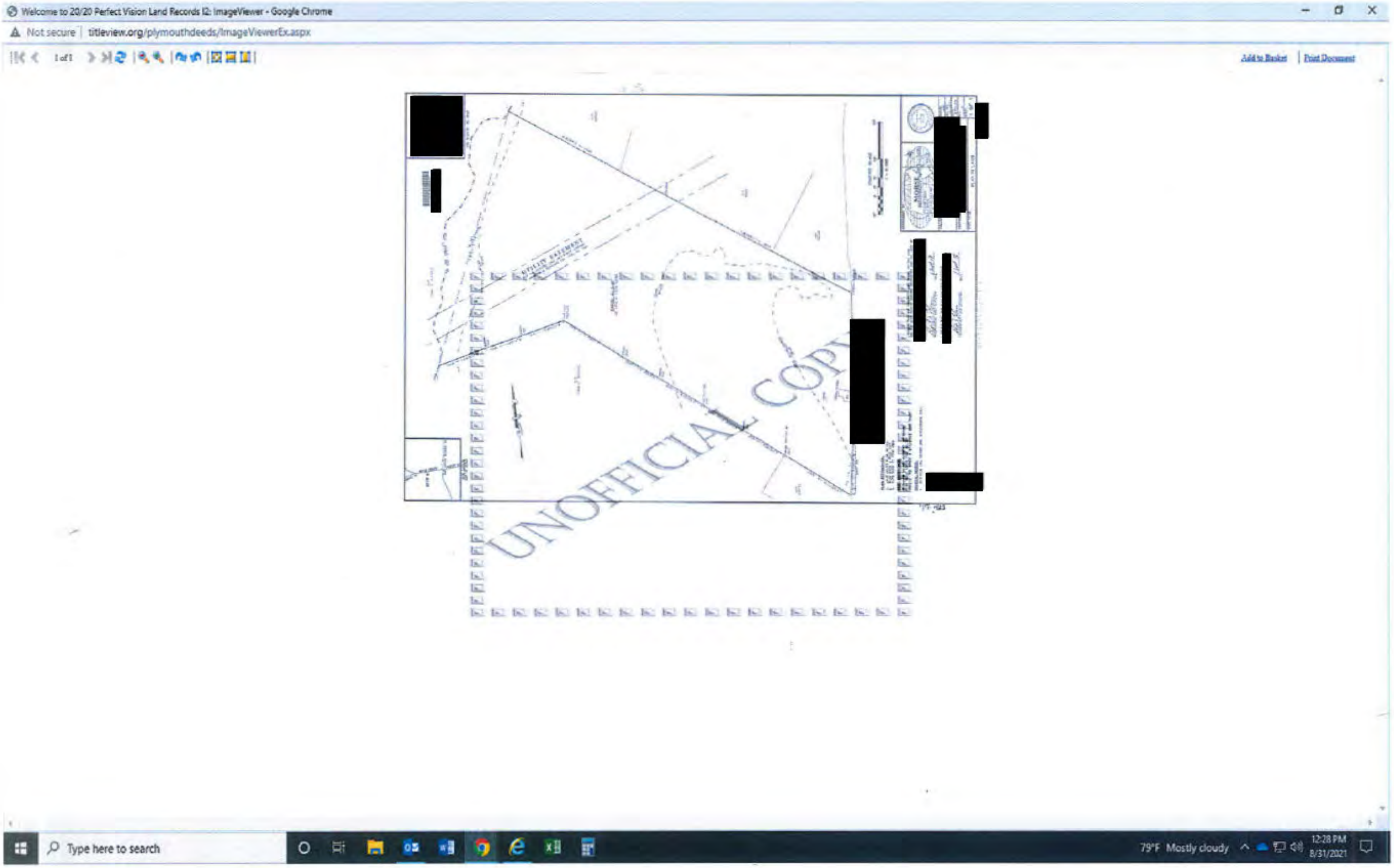
JAMES ENGINEERING, INC.
125 GREAT ROCK ROAD
HANOVER, MASS. 02339

[redacted]


40'
0
40'
80'
120'

SCALE IN FEET

Sh. 2 of 7



Welcome to 20/20 Perfect Vision Land Records I2: ImageViewer - Google Chrome
Not secure | titleview.org/plymouthdeeds/ImageViewerEx.aspx
1 of 1
Add to Basket
Print Document
UTILITY EASEMENT
UNOFFICIAL COPY
Type here to search
79°F Mostly cloudy
12:28 PM
8/31/2021

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

English	**This document is important and should be translated immediately.**
Español	**Este documento es importante y debe ser traducido de inmediato.**
Português	**Este documento é importante e deve ser traduzida imediatamente.**
Italiano	**Questo documento è importante e deve essere tradotto immediatamente.**
Ελληνικά	**Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφράζονται αμέσως.**
Français	**Ce document est important et doit être traduit immédiatement.**
中文	**这份文件是重要的，应当立即转换。**
Tiếng Việt	**Văn bản này rất là quan trọng và nên được dịch lại ngay lập tức.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

In the Matter of
Gary D. James
License No. 32531-EN-C

Docket No. 2021-000832-IT-ENF

CONSENT AGREEMENT

The Massachusetts Board of Registration of Professional Engineers and Land Surveyors (hereinafter "Board") and Gary D. James (hereinafter "Respondent") hereby stipulate and agree that the following information shall be entered into and become a permanent part of the record of the Respondent, which is maintained by the Board:

1. The Respondent agrees that this Consent Agreement (hereinafter "Agreement") has been entered into voluntarily and in resolution of the allegations set forth in the Order to Show Cause in Docket No. 2021-000832-IT-ENF.

2. The Respondent acknowledges and admits that:
   a) On or about January 24, 1986, the Board issued him a license to practice as a civil engineer in the Commonwealth of Massachusetts, 32531-EN-C.
   b) The Board has not issued him a license to practice as a Professional Land Surveyor in Massachusetts.
   c) In about 2019, he affixed his Professional Engineer stamp and/or his signature to plans for a property located on [redacted] including a Proposed Drainage Improvements Plan of Land and a Proposed Conditions Plan of Land.
   d) The above-described plans were not stamped or signed by a PLS, but included the delineation of existing or proposed structures, features or boundaries relative to property lines.

e) His conduct, described above, constituted the unlicensed practice of land surveying and a violation of 250 CMR 5.01(2) and M.G.L. c. 112, §§ 61, 65A.

3. It is the desire and intent of the Respondent and the Board to completely resolve this matter without a hearing conducted before the Board pursuant to G.L. c. 30A and 801 CMR 1.00. Therefore, the Respondent agrees that the Board shall place his license to practice as a registered professional engineer in the Commonwealth of Massachusetts on **SUSPENSION for a period of 30 days** (hereinafter "Suspension Period"). The Suspension Period shall commence on April 1, 2024 (hereinafter "Effective Date"). The Respondent understands and agrees that, while his license is suspended, he shall not engage in the practice of professional engineering, advertise or offer professional engineering services, or otherwise hold himself out in any manner tending to indicate that he is licensed by the Board to provide professional engineering services. The Respondent acknowledges and understands that any evidence of unauthorized practice by the Respondent which comes to the Board's attention shall subject his license to action by the Board under its statutory authority.

4. The Respondent agrees to submit a written petition to terminate the Suspension Period. Said petition shall include an executed copy of this agreement. The petition to terminate the Suspension is a documentary requirement of this agreement and must be submitted pursuant to paragraph 5, below. The Board shall terminate the Suspension unless it determines that termination would not be in the interest of public health, safety, or welfare. The Respondent agrees that the Suspension shall not be terminated unless and until he submits a written petition to terminate the Suspension and the Board acts to terminate the Suspension.

5. Any documentary requirements of the consent agreement shall be submitted electronically to: Compliance.dol@mass.gov or by mail to Division of Occupational Licensure, Office of Investigations – Compliance Monitor, 1000 Washington St, Ste 710, Boston, MA 02118.

6. The Respondent further agrees to pay a **FINE in the amount of one thousand dollars ($1,000.00)** upon his submission of this signed Agreement. Said fine payment shall be submitted in the form of a cashier's check or money order(s) made payable to the Commonwealth of Massachusetts.

7. The Respondent agrees to comply with all requirements contained in this Agreement and all laws and regulations governing the professional engineering profession in the Commonwealth of Massachusetts.

8. The Board agrees that, in return for the Respondent's execution of this Agreement and successful compliance with the terms of this Agreement, the Board will not further prosecute the allegations arising from the Complaint in this matter.

9. The Respondent acknowledges that this Agreement is a matter of public record, and that upon its Effective Date, the Board may forward a copy of this Agreement to any interested party or agency, including the equivalent licensing boards of other states or to any other individual or entity as permitted or required by law.

10. The Respondent understands and agrees that the disciplinary action described in this Agreement is a final act, which is not subject to reconsideration, appeal, or judicial review.

11. The Respondent states that he has used legal counsel in connection with his decision to enter into this Agreement or, if he has not used legal counsel, that such decision was freely made.

12. The Respondent certifies that he has read this document entitled "Consent Agreement" and understands its terms. The Respondent understands that he has the right to a formal hearing concerning the allegations against him and that during said adjudication, he would possess the rights to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts and all other rights set forth in the State Administrative Procedure Act, G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.00 et seq. The Respondent further states that he understands that by executing this document entitled "Consent Agreement," he is knowingly and voluntarily waiving his right to a formal hearing and to all of the above-listed rights attendant thereto.

13. The Respondent understands that this Consent Agreement is subject to final Board approval. Thus, the Respondent understands that this Agreement will not become effective until the Board formally approves it.

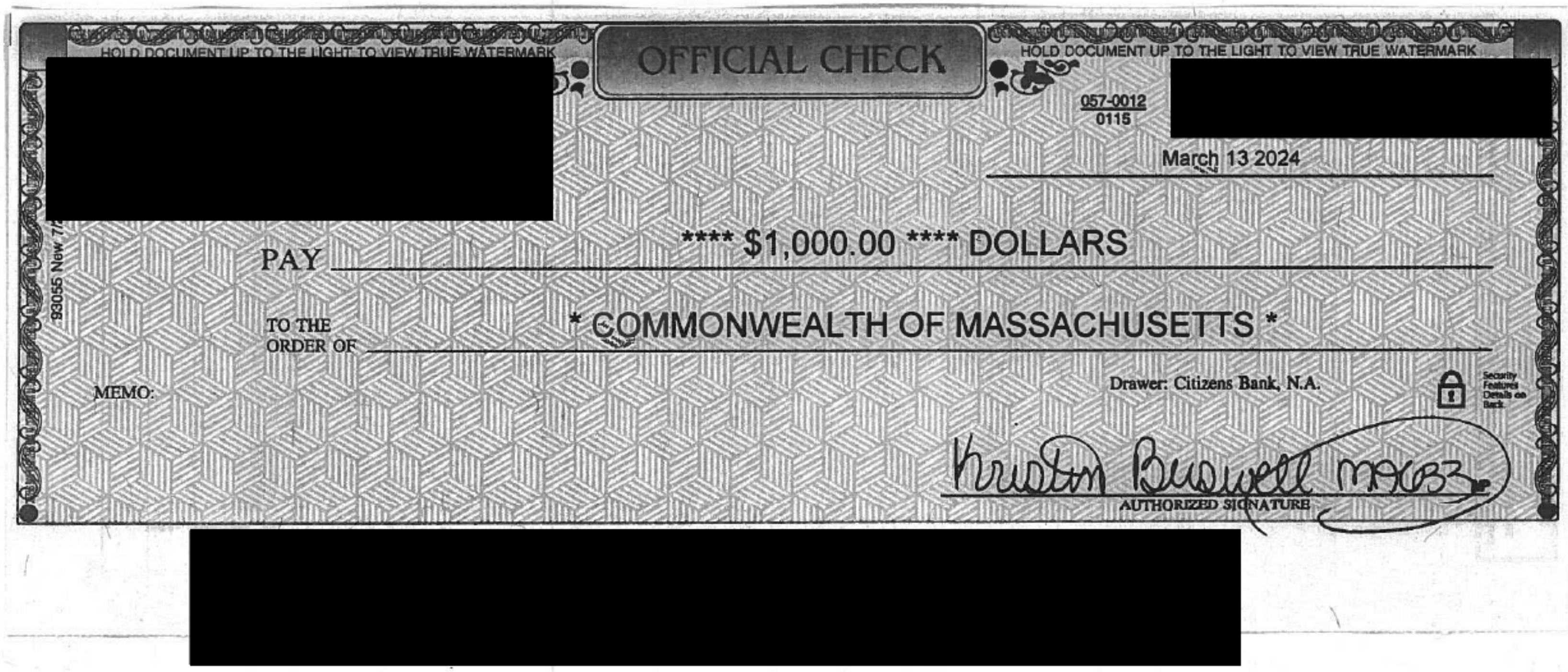
3/12/2024

Gary D. James, Respondent (*sign and date*)

For the Board of Registration of Professional
Engineers and Land Surveyors,

Kathleen McNally, Executive Director

April 1, 2024
EFFECTIVE DATE



HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

OFFICIAL CHECK

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

[redacted]

[redacted]

057-0012
0115

March 13 2024

PAY **** $1,000.00 **** DOLLARS

TO THE ORDER OF * COMMONWEALTH OF MASSACHUSETTS *

MEMO:

Drawer: Citizens Bank, N.A.

🔒 Security Features Details on Back

Kristin Buswell MA6B3

AUTHORIZED SIGNATURE

93055 New 7

[redacted]

MAURA HEALEY
GOVERNOR

KIM DRISCOLL
LIEUTENANT GOVERNOR

Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Prosecutions
1000 Washington Street, Suite 710
Boston, Massachusetts 02118

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER AFFAIRS AND BUSINESS REGULATION

LAYLA R. D'EMILIA
COMMISSIONER, DIVISION OF OCCUPATIONAL LICENSURE

February 15, 2023
By First-Class U.S. Mail and Certified Mail No. 7022 1670 0003 0452 6436

Gary James
James Engineering
125 Great Rock Rd
Hanover, MA 02339

RE: In the Matter of Gary D. James, Docket No. 2021-000832-IT-ENF

Dear Gary James,

The Massachusetts Board of Registration of Professional Engineers & Land Surveyors ("Board") investigated the above-referenced complaint against you. For the reasons set forth in the attached Order to Show Cause, the Board is proposing to take action against your license.

This action is subject to the adjudicatory provisions of M.G.L. c.30A and will be governed by the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 *et seq.* You have the right to request an adjudicatory hearing by filing a request for hearing within twenty-one (21) days of receipt of the Order to Show Cause. You must also submit an answer within twenty-one (21) days to the Order to Show Cause which meets the requirements of 801 CMR 1.01(6)(d) of the Adjudicatory Rules. The request for a hearing and answer must be filed with the Hearings Officer at the address identified in the Order to Show Cause. A copy of the request for hearing and answer must also be mailed to the prosecutor on this case, Mary Pixley. Failure to respond within twenty-one (21) days may result in the initiation of default proceedings.

You have the right to retain counsel to represent you in this matter. If you are represented by counsel in this matter, all communications with the Division should be made through your counsel.

If you have any questions, please call the prosecutor, Mary Pixley, at (857) 286-6872. Thank you for your prompt attention to this matter.

Sincerely,

Catherine Broderick
Legal Support Specialist
(617) 947-2935 or catherine.broderick@mass.gov

Enclosure

cc: Office of Hearings, Division of Occupational Licensure

CERTIFICATE OF SERVICE

Certify that a copy of the foregoing ***"Order To Show Cause"*** was served upon the Respondent at their address of record:

Gary James
James Engineering
125 Great Rock Rd
Hanover, MA 02339

by first class mail and certified mail no. 7022 1670 0003 0452 6436, return receipt requested.

In addition, it was sent via email to:

[redacted]

February 14, 2023

Catherine Broderick
Legal Support Specialist
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street Suite 710
Boston, MA 02118-6100

English	**This document is important and should be translated immediately.**
Español	**Este documento es importante y debe ser traducido de inmediato.**
Português	**Este documento é importante e deve ser traduzida imediatamente.**
Italiano	**Questo documento è importante e deve essere tradotto immediatamente.**
Ελληνικά	**Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφράζονται αμέσως.**
Français	**Ce document est important et doit être traduit immédiatement.**
中文	**这份文件是重要的，应当立即转换。**
Tiếng Việt	**Văn bản này rất là quan trọng và nên được dịch lại ngay lập tức.**

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

In the Matter of)
Gary D. James)
License No. 32531-EN-C)

Docket No. 2021-000832-IT-ENF

ORDER TO SHOW CAUSE

Gary D. James (hereinafter "you" or "Respondent"), you are hereby ordered to appear and show cause why the Massachusetts Board of Registration of Professional Engineers & Land Surveyors (hereinafter the "Board") should not suspend, revoke, and/or refuse to renew your license as an engineer, License No. 32531-EN-C, pursuant to Massachusetts General Laws ("G.L.") chapter 112, §§ 61 and 65A, and Board regulations located in the Code of Massachusetts Regulations (CMR) section 250, based upon the following facts and allegations:

1. On or about January 24, 1986, the Board issued you a license to practice as a civil engineer in the Commonwealth of Massachusetts, 32531-EN-C.

2. The Board has not issued you a license to practice as a Professional Land Surveyor ("PLS") in Massachusetts.

3. A licensed Professional Land Surveyor ("PLS") is a registered land surveyor.

4. You affixed your Professional Engineer stamp and/or your signature on at least the following plans:
    a. Proposed Drainage Improvements Plan of Land at [redacted] [redacted] dated April 23, 2019; and
    b. Proposed Conditions Plan of Land at [redacted] dated April 23, 2019.

5. The above-described plans were not stamped or signed by a PLS.

6. You were not working under the Direct Charge and Supervision of a PLS when you completed and stamped the above-described plans.

7. The above-described plans were not submitted by a project development team as part of a complete design package that included plans stamped by a PLS who had been commissioned for the project.

8. One or more of the above-described plans include the delineation of existing or proposed structures, features or boundaries relative to property lines.

9. You affixed your Professional Engineer stamp to one or more plans identified as a "Plan of Land."

10. You certified one or more site plans showing property lines by affixing your Professional Engineer stamp and/or signature to the plan(s).

***

11. Your conduct, as alleged above, constitutes performing land surveying work that is not incidental to engineering work without being a registered land surveyor or under the Direct Charge and Supervision of a registered land surveyor, in violation of 250 CMR 5.01(2).

12. Your conduct, as alleged above, constitutes engaging in the practice of a trade or profession for which a license is required without holding the required license, in violation of G.L. c. 112, § 65A.

13. Your conduct, as alleged above, constitutes violating a law, rule, or regulation of the board of registration governing the practice of your profession, and warrants Board discipline pursuant to G.L. Chapter 112, § 61(3).

14. Your conduct also constitutes unprofessional conduct which undermines the public confidence in the integrity of the engineering profession. *Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, cert. denied, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

***

You have a right to an adjudicatory hearing ("hearing") on the allegations contained in the Order to Show Cause before the Board acts to suspend, revoke, or impose other discipline against your license. G.L. c. 112, § 61; G.L. c. 141, § 4. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01(6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the rights: to a hearing, to secure legal counsel or another representative to represent your interests, to call and examine witnesses, to cross-examine witnesses who testify against you, to testify on your own behalf, to introduce evidence, and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). If you wish to provide for a written transcript, you must arrange for, and bear the cost of, a stenographer's presence at any hearing; and if a written transcript is prepared at your request, then said transcript shall also be provided to the Board, at your expense, for inclusion in the record. G.L. c. 30A, § 11(6); 801 CMR 1.01 10(k); 801 CMR 1.01 10(i).

Your failure to submit a written request for a hearing within 21 days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action. Your failure to submit an Answer to the Order to Show Cause within 21 days of receipt of this Order to Show Cause *shall result in the entry of default* in the captioned matter. If you are defaulted, the Board may enter a Final Decision and Order which assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your licenses to do business in this profession in the Commonwealth of Massachusetts, including any right to renew your license(s).

Any written request for a hearing and your Answer to the Order to Show Cause, as well as all future pleadings related to the captioned matter, shall be submitted for filing to:

Hearings Officer
Office of Hearings
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, Massachusetts 02118

A copy of any written request for a hearing and a copy of your Answer, as well as copies of all future pleadings related to the captioned matter, shall be provided to Prosecuting Counsel. Prosecuting Counsel for this matter is:

Mary Pixley
Office of Prosecutions
Division of Occupational Licensure
1000 Washington Street, Suite 710
Boston, Massachusetts 02118

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecuting Counsel. If you elect to undertake such an examination, please contact Prosecuting Counsel at (857) 286-6872 or mary.r.pixley@mass.gov to schedule a time that is mutually convenient.

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

Kathleen McNally, (electronic signature)
Kathleen McNally
Executive Director

Date: February 13, 2023

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

In the Matter of,

GARY D. JAMES
LICENSE #32531-EN-C

Docket No. 2021-000832-IT-ENF

NOTICE OF APPEARANCE

Now comes Kayla A. Sepulveda, and hereby request that her appearance as counsel of record be entered on behalf of the Defendant, Gary D. James, in the above referenced action.

Respectfully submitted,
Defendant,
Gary D. James
By his Attorney,

Date: January 25, 2024

Kayla A. Sepulveda
Sullivan & Comerford, P.C.
80 Washington Street
Building B, Suite 7
Norwell, MA 02061
Tel: (781) 871-6500
Email: ksepulveda@sulsul.com
BBO# 698588

James Engineering, Inc.
125 Great Rock Road, Hanover, MA 02339
Te[redacted]mail: [redacted]

September 11, 2021

Mr Matthew Runge
Office of Investigations
Commonwealth of Massachusetts
Division of Occupational Licensure
436 Dwight Street
Springfield, MA 01103

Re: 2021-000832-IT-ENF
EN/LS Board vs James

Mr. Runge.

I am in receipt of the complaint dated September 7, 2021 and based upon my review of the regulations I do not believe that I have practiced beyond my licensure in the issuance of the permit plans for the proposed barn at [redacted] I understand your issue with William E. Rainey P.L.S. I was unaware of the suspension of his license until June 2021, when he informed me and I was unaware of the suspension date until you informed me during our telephone conversation on September 8th. However, I contracted with Mr. Rainey in the spring of 2019, prior to the suspension of his license, to perform Professional Land Survey Services to locate the wetland flags and perform a limited amount of topographic survey of the parcel where my client intended to place a barn. In conjunction with this survey, he would tie into the property line as identified on the record plan referenced in my client's deed to ensure that the flags were located relative to the property line. He did not perform a property line survey nor was one required based upon the information obtained conducting research of the public records regarding the locus and the abutting parcels.

The property line plan for this parcel is the plan entitled "Plan of Land, [redacted] prepared by Morse Engineering, Corp. dated 08/21/17, prepared for the [redacted] and recorded in Plymouth County Registry of deed [redacted] Mr. Rainey's survey included a traverse that tied into multiple monuments identified on the record plan, so we were able to establish the relationship of the flags and topography to the record property line. This plan, as well as all of the other plans referenced on the [redacted] plan are *public documents*. Some were obtained from Scituate Town Hall records while the property line plan was obtained from the registry. These are the steps we followed to obtain a copy of the recorded plan.

1. Online, open the Town of Scituate Assessors Database and obtain the book and page of the record deed for the parcel.
2. Go to the web site for the Plymouth County Registry of Deeds and hit "Search Records"
3. Search for the deed based upon the book and page you found from the assessors database
4. Read the deed and see if there is a plan reference on the deed.
5. Conduct a plan search based upon the book and page referenced in the deed
6. Download and print the plan.

What is unusual about this plan is that the company, Morse Engineering, Corp., that actually created the plan still exists. However, in my experience this is the normally the exception not the rule. Most of the plans that we obtain from our research were created from 50-120 years ago. Regardless, based upon the monuments indicated on the plan, there was no need to contact Morse Engineering, Corp. The monument locations established by Mr. Rainey's survey were accurate enough to confirm that there were no significant errors in the plan and that it could be trusted. In addition, as referenced in the Morse Engineering, Corp plan, we also looked at the record property line plans for the adjacent lots on [redacted] performed by Aaberg Associates, Inc. recorded in Plymouth County Registry of Deeds [redacted] have worked on several projects in the past with Doug Aaberg and his survey capabilities are beyond reproach. In addition, one of the other references in the Morse Engineering, Corp. plan was Land Court Plan 3611A on the abutting parcel to the south. Accordingly, the property line of the parcel as shown by the Morse Engineering Plan was bounded by the recorded Aaberg plan to the north, the land court plan to the south, the [redacted] Right of way to the east and Third Herring Brook to the west. Mr. Rainey's survey traverse tied into the far northerly drill hole identified in the Aaberg plan on [redacted] 2 of the Land court monuments on the southerly boundary and the drill hole on the front right corner of the parcel.

I do not believe that the section of 250CMR5.01, (2) (b) which reads

> *(2) Land surveying work may be performed only by Professional Land Surveyor or under the Direct Charge and Supervision of a Professional Land Surveyor as described in 250 CMR 5.04.*
>
> > *(b) The delineation of existing or proposed structures, features or Boundaries relative to property lines requires the determination of property lines and therefore must be performed by a Professional Land Surveyor.*

relates to this plan for the following reasons.

1. All of the landmark and property line locations identified on the plan were determined by a Professional Land Surveyor and supplied to me electronically.
2. The plan was not developed to establish or determine property rights. It was prepared specifically to *obtain permits* for approval from the Town of Scituate Board of Health and the Conservation Commission for construction. These plans will not be recorded in the Registry of Deeds and will not establish any property rights.
3. The owner/client did not depend upon this plan as a determination of property rights. Those rights as identified in his deed were established by plans recorded at the registry of deeds and referenced in his deed to the parcel.
4. I did not conduct any survey on this parcel in conjunction with the development of the plan. All of the information identified on the plan was given to me by a Professional Land Surveyor, that I contracted with to perform the survey, including the property line, the wetland flag locations, the top of bank flags, the utility poles in the Electric easement, the location of the easement, the topography in and around the proposed improvements, the utility and pavement locations on [redacted] he location of the existing house and driveway, the location and elevation of the dam, the culvert beneath [redacted] and the limit of the ponding behind the dam.
5. The surveyor did not depend upon the accuracy of the plan prepared by Morse Engineering, Corp. he performed a survey traverse and tied into the plans on either side of the parcel to confirm that the plan was accurate.
6. The property line in question is a historic stonewall. Thus, the location of this property line has never been in question. The distance and bearing of this line were established by the Aaberg Plan, confirmed to be exactly the same by the Morse Engineering, Corp plan and confirmed by William E. Rainey, P.L.S. sufficiently to know that the two surveys were correct.
7. The accuracy of the Morse Engineering Plan was never in question based upon the reliability of the Land Court plan to the south and my experience with Doug Aaberg.

Based upon my experience in the area, Morse Engineering, Corp.is a well-respected organization that works in many of the same communities that I have been working in for over 25 years. I have not heard a single complaint relative to the accuracy of his survey and design plans. They recently completed a large residential subdivision in Norwell, and the attorney representing the client spoke to me of the capabilities of the company in executing this design.

I trust you will agree with me that I did not violate 250CMR5.01(2)b in performing this design. The plan did not establish any property rights, I did not perform any survey rather I contracted with a P.L.S. to conduct the survey. The plan was not a *determination of the property line,* this property line had been determined in the past by both the construction of the stonewall and recorded plans from multiple sources. Thus, any setbacks shown on the plans were merely identified for the benefit of the approving authorities at the Town of Scituate.

If you have any further question or comments regarding the above or need any further documents, please do not hesitate to contact me.

Very truly yours,

Gary D. James, P.E.

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

Commonwealth of Massachusetts
Division of Occupational Licensure
Office of Investigations
436 Dwight Street, Room 210
Springfield, MA 01103

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER
AFFAIRS AND BUSINESS
REGULATION

LAYLA R. D'EMILIA
COMMISSIONER, DIVISION OF
OCCUPATIONAL LICENSURE

September 7, 2021

Gary James
125 Great Rock Road
Hanover, MA 02339

RE: 2021-000832-IT-ENF
EN / LS Board vs. James

Dear Mr James:

This is a request for a response to a complaint filed against your license by the Massachusetts Board of Professional Engineers and Professional Land Surveyors (Board). Enclosed is a copy of the complaint. You are to provide your response to all allegations set forth in the complaint.

In addition to your response, please provide a detailed statement related to your use of 2017 Morse Engineering plan. This statement should include but not be limited to:

- The history of how your firm came into possession of the 2017 Morse plan.
- Was your firm working with Morse Engineering on your project?
- Did you contact Morse Engineering to discuss their 2017 work product prior to using it in your 2019 plan?

All information recieved will be sent to the Board for their evaluation. Please submit your response to my attention at either the address listed above or email address below by **September30, 2021**. Thank you in advance for your attention to this matter. If you have any questions or concerns regarding this request you may reach me at 413-735-6293.

Respectfully,

Matthew Runge
Office of Investigations

Commonwealth of Massachusetts **Alan VanTassel** DPL Staff Default Console Options Sign Out

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Professionals

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☐ **License Number**	**Board**	**License Type**
☐ 32531	Board of Registration of Professional Engi...	Civil Engineer

Help

License Number	**Licensing Board**	**License Type**	**Type Class**	**Status**
32531	Board of Registrati...	Civil Engineer	C	Current

License Issue Date	**License Expiration Date**	**License Last Renewal Date**
01/24/1986 00:00:00	06/30/2022 00:00:00	12/31/1969 19:00:00

Entity Name
JAMES ENGINEERING

DBA/Trade Name

FEIN

First Name	**Middle Name**	**Last Name**	**Suffix**
GARY	D	JAMES	

[redacted]

Primary Phone

E-mail

[redacted]

Discipline

Address Line 1
125 Great Rock Rd

Address Line 2

Address Line 3

City	**State**	**ZIP Code**	**Country/Region**
Hanover	MA	02339(-1370)	United S...

Prior Discipline
Suspended,Probation

2 prior complaints –

- EN-02-019, UP, Dism.
- EN-91-011, forged plans, Suspended 15 days, + 1-year probation

Runge, Matthew (DPL)

From: gmorse@morsecoinc.com
Sent: Tuesday, August 31, 2021 1:52 PM
To: Runge, Matthew (DPL)
Subject: RE: Investigation / DPL

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. Runge,
Nice speaking with you on the phone today and thank you for performing the work you do, keeping the integrity of our profession in check. To answer your questions:

1. The boundary surveying at [redacted] was performed by my firm, Morse Engineering Co., Inc. during 2017 for the [redacted]
2. We did not authorize use of our work product on the James Engineering 2019 plan. However, our plan from 2017 was "recorded" at the Registry of Deeds and available for anyone to view and utilize the information provided thereon. James included a reference to our plan (note 5) which I would expect if anyone were utilizing data from our plan.
3. I am not working with James Engineering on this project. I am working on another project in Norwell with James Engineering. Also, my father, Jeff Morse is an excavation contractor and I believe is performing work at [redacted] He is a separate entity than Morse Engineering.
4. No one from James Engineering has ever contacted me regarding my previous work at [redacted]

Please let me know if you need anything further.

Gregory J. Morse, P.E.
Morse Engineering Co., Inc.

From: Runge, Matthew T (REG) <matthew.t.runge@state.ma.us>
Sent: Tuesday, August 31, 2021 1:23 PM
To: GMorse@Morsecoinc.com
Subject: Investigation / DPL

Hello Mr. Morse,

I am Matthew Runge, an Investigator with the Division of Professional Licensure's (now renamed the Division of Occupational Licensure) Board of Professional Engineers and Professional Land Surveyors. I am hopeful to briefly speak with you about the work you / your firm conducted or [redacted] in 2017. A lead that I am investigating led me down a rabbit hole to this attached plan. It notes that that the Surveying work was performed by your firm. Did you / your firm authorize the use of your work product on the attached James Engineering 2019 plan? Are you currently working in conjunction with James Engineering on this project? Has anyone from James Engineering contacted you / your firm to discuss your 201No one 7 work product?

Please know that neither you nor anyone at your firm is the subject of this investigation. Thank you for your time and assistance. My phone number is below.

Matthew Runge

Office of Investigations
Division of Occupational Licensure
436 Dwight Street, Room 210
Springfield, MA 01103
(p) 413-735-6293 (f) 413-784-1325
Matthew.t.runge@mass.gov

Virus-free. www.avast.com

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

BOARD OF REGISTRATION OF
PROFESSIONAL ENGINEERS &
LAND SURVEYORS

In the Matter of,

GARY D. JAMES
LICENSE #32531-EN-C

Docket No. 2021-000832-IT-ENF

NOTICE OF APPEARANCE

Now comes Walter B. Sullivan, and hereby request that his appearance as counsel of record be entered on behalf of the Defendant, Gary D. James, in the above referenced action.

Respectfully submitted,
Defendant,
Gary D. James
By his Attorney,

Date: January 25, 2024

Walter B. Sullivan
Sullivan & Comerford, P.C.
80 Washington Street
Building B, Suite 7
Norwell, MA 02061
Tel: (781) 871-6500
Email: wsullivanjr@sulsul.com
BBO# 555571